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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/672,038 09/29/00 DEHMER

B 4481-028

EXAMINER

QM02/0913

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ART UNIT	PAPER NUMBER
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3753  
DATE MAILED:

09/13/01

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.

09/672038

Applicant(s)

Examiner

Jux

Group Art Unit

3753

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

## Status

- ☒ Responsive to communication(s) filed on 9/29/2000
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- ☒ Claim(s) 1-14 is/are pending in the application.
- Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- ☒ Claim(s) 1-14 is/are rejected.
- ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- ☐ Claim(s) \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119 (a)-(d)

- ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☒ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been received.
- ☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_
- ☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

## Attachment(s)

- ☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 4
- ☒ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-946
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Other \_\_\_\_\_

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This action is responsive to the communication filed September 29, 2000.

The spacing of the lines of the specification is such as to make reading and entry of amendments difficult. New application papers with lines double spaced on good quality paper are required.

The drawings are objected to under 37 C.F.R. § 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the conical head of claim 1 must be shown or the feature cancelled from the claim. No new matter should be entered.

Claims 5-13 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. There is no proper antecedent basis for "surface parts" in claim 5, "the opposing shut-off surfaces" in claim 8, or "the free end of the actuator" in claim 13. Claim 6 is inaccurate and confused. Perhaps --one of-- should follow "on" in line 3. In claims 9, 12 and 13 it appears that "surface" should be --surfaces-- as regards the seat.

The action on the merits of the claims hereafter is made to the extent that the claims are understood.

Subject matter in the claims which is indefinite, ie. that is subject to more than one interpretation, is given that

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interpretation which renders it subject to rejection on the prior art, provided that the issues involved can be reasonably understood. Grammatical and typographical errors and recitations without proper antecedent basis of a minor nature, such as the addition or omission of an adjectival modifier, will be interpreted as if they had been corrected, provided that the correction is reasonably apparent.

Claims which are not treated on their merits hereafter are deemed to be so informal as to preclude a reasonable comparison to the Prior Art in that the meaning of the terms of the claims and thus the content and scope of the claims cannot be determined with a reasonable degree of certainty.

This will be the case where the claims include subject matter which is more seriously indefinite, unclear or inadequately supported. For example, where an indefinite recitation is compounded by reference to another indefinite recitation, where there is a multiplicity of indefinite recitations, where there are numerous and repetitive formal errors or where the essential distinguishing feature or features of the invention, ie. the point of novelty, is indefinite, it would require considerable speculation to arrive at a determination of the scope and content of the claim.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless --  
(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4, 6, 9, and 14 are rejected under 35 U.S.C.

§102(b) as being anticipated by Lhota (EP 0 274 781). Note sealing element 31 having segments shaped as a segment of a cone, inlet 25, outlets 1, 2, and conical seats 36 made of an elastic material.

The following is a quotation of 35 U.S.C. § 103 which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Subject matter developed by another person, which qualifies as prior art only under subsection (f) or (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

Claim 10 is rejected under 35 U.S.C. § 103 as being unpatentable over Lhota. The use of teflon for the seats 36 is considered to be an obvious matter of design choice in view of the notoriously old and well known nature of teflon used as a sealing material.

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Claims 1, 6, 11, and 12 are rejected under 35 U.S.C. §102(b) as being anticipated by Reedy. Reedy shows another diverter valve with inlets 11, 12 and outlets 16, 24, sealing member 25 with conical segments, and conical seats 15, 20. The portions of the seats outward, towards the outlets, are read as steps.

The Prior Art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication should be directed to Examiner Fox at (703) 308-2595 or John.Fox@uspto.gov. Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0861. The fax number for Art Unit 3753 is (703) 308-7765. The Supervisory Primary Examiner for Art Unit 3753 is Michael Buiz who can be reached at (703) 308-2580 or at Michael.Buiz@uspto.gov.

  
JOHN FOX  
PRIMARY EXAMINER  
ART UNIT 3753

jcf  
September 10, 2001